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JF

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/487,239 01/20/00 NABATA

N 057646

EXAMINER

IMS2/1105
Sughrue Mion Macpeak & Seas PLLC
2100 Pennsylvania Avenue N W
Washington DC 20037

VO. II ART UNIT	PAPER NUMBER
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1771
DATE MAILED:

6
11/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/487,239	NABATA ET AL.	
	Examiner	Art Unit	
	Hai Vo	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2 and 5</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by JP-04-126353 Abstract. JP'353 discloses a multi-layered water repellent film comprising polytetrafluoroethylene (PTFE) porous layer on both surfaces of ultra-high molecular weight polyethylene (UHPE) porous layer. JP'353 anticipated the claimed subject matter.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al (US 5,772,884) in view of Casey et al (US 5,759,669) or Pluyter et al (US 5,248,461). Tanaka discloses a laminate comprising a porous PTFE film and a porous polyethylene as the porous reinforcing material coated on either one or both sides of the porous PTFE film (column 4, line 34-55). Tanaka does not specifically disclose an UHPE. Casey discloses a green sheet having an UHPE porous backing layer. Pluyter teaches a microporous film of UHPE used for filters (abstract). It would

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have been obvious to one having ordinary skill in the art at the time the invention was made to have used an UHPE as the porous reinforcing material for the laminate of Tanaka motivated by the desire to obtain a laminate which is excellent as a filter because an UHPE with a wide range of pore volumes and pore sizes has shown the best performance for filters and for vapor-permeable but waterproof clothing.

With regard to claims 3 and 4, Casey discloses a backing layer having a pore size of between 1 to 2 microns and a pore volume of 60 to 90 percent (column 6, lines 61-63). Pluyter discloses a microporous film having a wide range of porosity (tables 1-7).

5. Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dauber et al (US 5,916,671) in view of Casey et al (US 5,759,669) or Pluyter et al (US 5,248,461). Dauber discloses a gasket comprising a layer of a porous PTFE film and a stiffening layer of polyethylene (abstract and column 8, lines 10-15). Dauber does not specifically disclose an UHPE. Casey discloses a green sheet having an UHPE porous backing layer. Pluyter teaches a microporous film of UHPE used for filters (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used an UHPE as the porous reinforcing material for the laminate of Tanaka motivated by the desire to obtain an improve gasket suitable for use in computer disk drives.

With regard to claim 5, Dauber discloses a gasket having three dimensions (length, width and height) shown in example 8 holding adsorbent particles (column 7, lines 42-50).

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With regard to claims 7, Dauber is silent as to the shape of the laminate. *In re Dailey*, 149 USPQ 47 (CCPA 1976), there is nothing on the record that convinces the examiner that the particular shape of the laminate is significant or is anything more than one of numerous shapes a person of ordinary skill in the art would find obvious for the purpose of providing the shape of the laminate, therefore, the shape of the laminate in itself would not render the claims patentable over Dauber. See *Graham v. John Deere Co.*

Allowable Subject Matter

6. Claims 6 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose a container as claimed having at least two laminates are joined together.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on Monday to Friday, 8:30 to 5:00 (EAST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (703) 308-1261. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-5436 for regular communications and (703) 305-7718 for After Final communications.
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


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HV

October 31, 2001



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